

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PENSKE MEDIA CORPORATION,

Plaintiff,

-against-

SHUTTERSTOCK, INC.,

Defendant.

Case No. 20-cv-04583 (MKV)

**MEMORANDUM IN SUPPORT OF MOTION FOR CLARIFICATION  
REGARDING THE COURT’S OPINION AND ORDER ON  
SHUTTERSTOCK’S PARTIAL MOTION TO DISMISS THE SECOND, THIRD, AND  
FOURTH CAUSES OF ACTION IN THE AMENDED COMPLAINT**

Defendant Shutterstock, Inc. (“Shutterstock”) respectfully moves the Court pursuant to Fed. R. Civ. P. 60(a) regarding its Opinion and Order, dated July 9, 2021 (Dkt #71) (the “Opinion”), specifically concerning particular language at page 4 of the Opinion, which indicates that Plaintiff Penske Media Corporation’s (“Penske”) Digital Millennium Copyright Act (“DMCA”) cause of action concerns pre-termination conduct. In particular, the Opinion reads: “Penske’s other copyright-related claim alleges a violation of the Digital Millennium Copyright Act. Penske claims that, both before [*sic*] after Shutterstock terminated the Agreement, Shutterstock falsely stated that it, and not Penske, owned the copyright to the photographs in question.” *Id.* Shutterstock’s reading of the Amended Complaint is that the DMCA claim asserts a claim for relief for the period following Shutterstock’s termination of the parties’ Agreement only. The parties have conferred, and Penske agrees with Shutterstock’s reading. Accordingly, to the extent necessary for correction or clarification of the record, Shutterstock respectfully requests that the Court clarify that the DMCA claim asserts a claim for

relief for the post-termination time period only. Penske has no objection to Shutterstock's request.

DATED: New York, New York  
July 23, 2021

Respectfully submitted,  
  
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